

# Elaina Smiley

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## Partner

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Elaina Smiley is Chair of the firm's Employment Law Practice Group. She is also a member of the firm's Immigration and Litigation Practice Groups.

Elaina's practice involves employment and immigration law. Her work focuses on counseling employers on employment law compliance, defending employment discrimination claims, wage and hour claims, and matters involving breach of employment and non-compete agreements. Her practice also includes drafting the following: employment contracts, severance agreements, independent contractor agreements, non-compete and non-solicitation agreements, employment policies, and handbooks. She frequently advises companies on compliance with employment laws and wage and hour laws, and she counsels clients in termination and disciplinary actions.

In addition, she provides training and counseling employers on topics such as: methods to avoid discrimination and harassment claims, how to handle employee complaints, compliance with equal employment opportunity laws, sexual harassment, compliance with Family and Medical Leave Act, as well as the Fair Labor Standards Act and overtime rules.

Elaina handles various immigration matters such as H-1B visas, H-2B temporary worker visa, L visas, labor certifications and the green card process, on behalf of companies, universities, colleges, and individuals. Furthermore, she counsels employers on compliance with immigration and employment laws connected to the employment of foreign nationals in the U.S.

Elaina grew up in Punxsutawney, Pennsylvania and currently lives in Mars, Pennsylvania. She enjoys spending time with her family and running.

## Capabilities

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- Employment Law
- Immigration
- Litigation
- Nonprofit Organizations



## Representative Matters

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- Employment discrimination claims – such as disability, age, race, pregnancy and sex discrimination, and harassment – filed before the Equal Employment Opportunity Commission, Pennsylvania Human Relations Commission, and Federal and State Courts.
- Breach of employment contracts and non-compete agreements in State and Federal Courts.
- Claims for unpaid wages under the Pennsylvania Wage Payment and Collection Law.
- Drafting, updating, and advising employers regarding employee handbooks and policies, drug testing, employee medical issues and counseling employers on compliance with current employment laws.
- Representing clients in unemployment matters.
- Representing employers in class and collective actions involving wage and hour claims and improper calculation of overtime.
- Assisting clients in obtaining temporary visas such as H-1B and L visas.
- Assisting clients in obtaining Permanent Resident status (Green Card) through employment and the Labor Certification (PERM) process and by marriage to a U.S. citizen.
- Representing clients through the naturalization process to become U.S. citizens.
- Assisting clients in obtaining work cards and travel documents.

## Awards & Honors

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- Included in The Best Lawyers in America® for Labor and Employment Litigation

## Professional/Community Involvement

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- Allegheny County Bar Association, Member
- American Immigration Lawyers Association (AILA), Member

## Bar Admissions

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- Pennsylvania

## Court Admissions

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- U.S. District Court for the Western District of Pennsylvania
- United States Court of Appeals for the Third Circuit
- Supreme Court of Pennsylvania

## Education

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- J.D., Duquesne University School of Law, 1999, *cum laude*
- B.A., University of Pittsburgh at Johnstown, 1996, *magna cum laude*



## Writing/Speaking

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- "Employment Update: DOL Increases Salary Threshold for Exempt Employees," May 10, 2024.
- "Employment Update: FTC Bans Non-Compete Provisions," May 2, 2024.
- "Construction Law and Employment Overview" Community Power to Prosper presentation, May 19, 2023.
- "Business Practices & Considerations for a Healthy Business," Institute for Entrepreneurial class presentation, September 28, 2022.
- "Construction Law and Employment Overview" Community Power to Prosper presentation, March 7, 2022.
- "Advanced Wage and Hour Issues to Prevent Costly Mistakes" Institute for Entrepreneurial class presentation, July 14, 2021.
- "Construction Law and Employment Overview" Community Power to Prosper presentation, May 11, 2021.
- "Employment Law Considerations as Restaurants Reopen," *Modern Restaurant Management*, May 6, 2020.
- "Employment Law Alert: Employers Need to Update Their Policies – Pittsburgh's Paid Sick Days Act is Effective March 15," *MUS Blog*, March 3, 2020.
- "Immigration Client Alert: New H-1B Selection Process Begins March 1," *MUS Blog*, January 28, 2020.
- "As OT Rule Changes, Construction Employers Should Examine Job Descriptions," *The Legal Intelligencer*, November 7, 2019.
- "Immigration Alert: 'Public Charge' Moves Towards More Restrictive Standard," *MUS Blog*, October 4, 2019.
- "Pittsburgh's Paid Sick Leave Rule Upheld by PA Supreme Court," *MUS Blog*, July 19, 2019.
- "Why Your Office Needs an Email and Internet Policy," *MUS Blog*, June 4, 2019.
- "Employment Law Client Alert: Major Changes to Overtime Pay on the Horizon," *MUS Blog*, March 12, 2019.
- "Immigration Law Alert: H-1B Visa Applications Can Be Filed on April 1," *MUS Blog*, February 6, 2019.
- "Yearly Employment Law Check-Up: Top Five Items to Review Now," *MUS Client Update*, January 4, 2019.
- "Administration Proposes New Rules to Test 'Public Charge,'" *MUS Client Alert*, December 20, 2018.
- "Employment Law and Insurance Overview," Institute for Entrepreneurial Excellence class presentation, September 19, 2018.
- "Business Practices & Considerations for a Healthy Business," Institute for Entrepreneurial class presentation, September 12, 2018.
- "New PA Law Limits Availability of Criminal Record Information," *SMC Business Council Government Advocacy News*, September 2018 issue.
- "Immigration Issues When Bringing In/Hiring Foreign Workers," Institute for Entrepreneurial Excellence class presentation, August 16, 2018.
- "Employment and Construction Law Overview," University of Pittsburgh's Urban and Community Entrepreneurship Program, April 11, 2018.
- "Court Rules that Revised FLSA Regulations Are Invalid," *MUS Client Alert*, September 1, 2017.
- "Revised I-9 Forms Must Be Used Starting 9/18/2017," *MUS Client Update*, August 28, 2017.
- "E-3 Visas Exclusive to Australian Citizens," *MUS Client Update*, August 3, 2017.
- "Work Options for Foreign Students," *MUS Client Update*, July 5, 2017.
- "Companies Should Prepare for an Increase in I-9 Audits," *MUS Client Alert*, May 4, 2017.



- “H-1B Visa Applications Can Be Filed On April 3,” *MUS Client Alert*, March 2, 2017.
- “President Trump’s Executive Orders On Immigration,” *MUS Client Alert*, February 17, 2017.
- “Yearly Employment Law Check-Up,” *MUS Client Alert*, January 9, 2017.
- “New I-9 Forms Must Be Used Starting 1/22/2017,” *MUS Client Update*, January 5, 2017.
- “Business Workshop: Offer letters should specify final pay terms,” *Pittsburgh Post-Gazette* Business Workshop, September 20, 2016.
- “New Changes to Overtime Pay Regulations Double Minimum Salary Levels for Exempt Employees,” *MUS Client Advisory*, May 19, 2016.
- “Judge Rules City of Pittsburgh Did Not Have Authority to Enact Paid Sick Leave Ordinance,” *MUS Client Advisory*, December, 2015.
- “Practical Tips: How to Comply with Recent Changes to Employment and Immigration Policies,” Speaker, October and December 2015.
- “EEOC Clarifies Employees Protected from Discrimination Based on Sexual Orientation,” *MUS Client Advisory*, August 12, 2015.
- “Proposed Amendments to FLSA Overtime Exemptions,” *MUS Client Advisory*, July, 16, 2015.
- “Employing Foreign Workers, What US Companies Need to Know,” Speaker, *Pittsburgh Human Resources Association*, May 2015.
- “Certain H-4 Dependent Spouses May Seek Employment Authorization - Effective May 26, 2015,” Co-Author, *MUS Client Advisory*, March 5, 2015.

